

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

H. DEWORTH WILLIAMS, Plaintiff, vs. CYBER OPERATIONS INC., Defendant.	MEMORANDUM DECISION and ORDER Case No. 2:09-cv-460 CW
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Now before the court is Plaintiff H. Deworth Williams' motion for summary judgment in his favor against Defendant Cyber Operations, Inc., as well as two motions to strike, a motion for attorney's fees and a motion to continue trial date by Cyber Operations.

The court has reviewed the briefing and supplemental materials submitted by the parties and has concluded that Cyber Operations has established that there are genuine disputes of material fact that preclude judgment in Mr. Williams' favor. *See* Fed.R.Civ.P. 56(a). Mr. Williams' motion for summary judgment (Dkt. No. 35) is therefore DENIED.

As for Cyber Operations' motions to strike (Dkt. No. 38 & 45) the court simply disregarded any improper portions of each of Mr. Williams' affidavits when it was considering his motion, so those motions are DENIED as moot. While most of the material in the affidavits was improperly included, the court does not believe that they were submitted in bad faith, or that it was particularly difficult to recognize and respond to their deficiencies. Accordingly, Cyber Operations' motion for fees (Dkt. No. 48) is DENIED.

Finally, the motion to continue trial (Dkt. No. 60) is DENIED, except that the trial will now likely start on February 15, 2011. The court will contact the parties to confirm that date, and

to set a date for a final pretrial conference. A proposed final pretrial order is to be filed on February 7, 2011, and proposed voir dire and jury instructions are due on February 10, 2011.

SO ORDERED this 24th day of January, 2011.

BY THE COURT:



Clark Waddoups
United States District Judge